

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

No. 5:19-CR-197-FL-1

## ORDER

This matter came before the court on September 17, 2020, for a hearing on the competency of Defendant Nashiem Malik Smith (“Defendant”) to determine whether he is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense in accordance with 18 U.S.C. §§ 4241 and 4247(d). At the hearing, the government was represented by Assistant United States Attorney Robert J. Dodson and Defendant, who was appearing by video with consent, was represented by David White. A witness for the Government, Dr. Haley Wentowski, appeared by video. The court advised Defendant of his rights under 18 U.S.C. § 4247(d), which he indicated he understood.

In accordance with the court's order, prior to the hearing, Defendant was evaluated at the Federal Medical Center Lexington by Haley Wentowski, Psy.D., a forensic psychologist. At the conclusion of Defendant's evaluation, Dr. Wentowski authored a Forensic Psychological Report ("Report") dated August 4, 2020, containing a detailed summary of Defendant's evaluation as well as Dr. Wentowski's findings and conclusion bearing on Defendant's competence. The report was filed under seal and provided to counsel prior to the hearing.

At the hearing, the government argued in support of Dr. Wentowski's findings and

conclusions in the Report. According to the Report, Defendant's diagnoses are Intellectual Disability, Mild and Cannabis Use Disorder. Dr. Wentowski opines that Defendant is not suffering from a mental disease or defect rendering him mentally incompetent, he has demonstrated a reasonable degree of factual and rational understanding of the legal proceedings against him, and he is capable of assisting properly in his defense. According to Dr. Wentowski, Defendant is competent to proceed in this matter. Defendant did not contest the findings of the Report and offered no evidence in rebuttal to its findings and conclusions.

Accordingly, after consideration of the position of the parties as well as the findings contained in the Report, the court does not find by a preponderance of the evidence, pursuant to 18 U.S.C. § 4241(d), that Defendant is presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.

So ordered, the 17th day of September, 2020.



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Robert B. Jones, Jr.  
United States Magistrate Judge